

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JAMES E. LIERMANN,

Plaintiff,

v.

Case No. 18-cv-876-pp

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER GRANTING MOTION FOR LEAVE TO PROCEED WITHOUT  
PREPAYMENT OF THE FILING FEE (DKT. NO. 2)**

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On June 8, 2018, the plaintiff filed a complaint seeking judicial review of a final administrative decision denying his claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. The plaintiff also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 2.

In order to allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff has the ability to pay the filing fee, and if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts presented in the plaintiff's affidavit, the court concludes that he does not have the ability to pay the filing fee. The affidavit indicates that the plaintiff has no income, and his wife has income of \$2,100 per month. Dkt. No. 2 at 2. The couple's expenses total \$2,841 per month, *id.* at 4-5, and they have no property against which they can borrow, and no

money in a checking/savings account, id. at 3. The plaintiff states that he “rel[ies] on his spouse 100% for financial support,” and that he and his wife are in the process of filing for bankruptcy because their expenses exceed their income. Id. at 5. The court concludes from that information that the plaintiff has demonstrated that he cannot pay the \$350 filing fee and \$50 administrative fee.

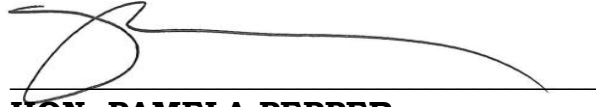
The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 Fed. 1050, 1056 (7th Cir. 1993)). A person may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner’s final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

In his complaint, the plaintiff states that he is disabled and that the conclusions and findings of fact made by the defendant in denying his application for benefits are not supported by substantial evidence and are contrary to law and regulation. Dkt. No. 1 at 1-2. At this early stage in the case, and based on the information in the plaintiff’s complaint, the court concludes that there may be a basis in law or in fact for the plaintiff’s appeal of the Commissioner’s decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's motion for leave to proceed without paying the filing fee. Dkt. No. 2.

Dated in Milwaukee, Wisconsin this 26th day of June, 2018.

**BY THE COURT:**

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

**HON. PAMELA PEPPER**  
**United States District Judge**